

The Food Safety Modernization Act

Background

The United States has a food safety system grounded in 19th century concerns, operating under 1900s laws, and constrained by 1930s understandings of food hazards. The Federal Food, Drug, and Cosmetic Act of 1938 simply does not provide FDA with a modern mandate to prevent food-borne illness. That is why the National Academy of Sciences criticized the food safety system as outdated and ineffective and the Government Accountability Office identifies it as a high-risk area in need of broad-based transformation.

In the long run, Congress should pass comprehensive reform that prioritizes food safety in a single agency with clear lines of responsibility and accountability. A single agency dedicated to protecting all aspects of the food supply is the ideal. But, until public demands for reform overwhelm political intransigence toward change, Congress must, at a minimum, make sure the agencies responsible for food safety have a modern focus and effective tools to prevent a reoccurrence of disasters like the *Salmonella* outbreaks of 2008 and 2009. That is the purpose of the Food Safety Modernization Act.

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The Food Safety Modernization Act sets up a farm-to-fork system for protecting foods that are currently regulated by FDA, which accounts for 80 percent of the food supply.

Under the Act, FDA would be split into an agency responsible for food safety (the Food Safety Administration) and another responsible for regulation of drugs and devices. By ending the linkage between drugs and food, this move creates an agency headed by a food safety expert and solely focused on protecting the public through better regulation of the food supply. The new agency would consolidate food safety functions for FDA-regulated foods under a single agency headed by the Food Safety Administrator.

The Food Safety Modernization Act also updates food laws and changes the focus from catching violators to preventing disease-causing contamination. It takes a modern approach to food safety by requiring food producers to control health hazards in their operations, meet specified standards for removing contaminants and pathogens from food, and submit to regular inspections. Foreign suppliers would be required to meet the same (or equivalent) standards for safety as domestic companies must meet. When prevention fails, the Administrator of Food Safety would have authority to order recalls, seize unsafe food before it enters the market, and fine companies that refuse to abide by the law.

To prevent a reoccurrence of the failures surrounding the *Salmonella* saintpaul outbreak, the Administrator would have clear authority to establish a mandatory traceability system for all foods from the farm to the grocery store counter. It also requires the Administrator to improve State and Federal cooperation on food safety.

Other changes made by the Food Safety Modernization Act include:

- Requiring food establishments to register annually so the Food Safety Administrator can identify where to focus food inspection resources.
- Providing authority to suspend the registration of food establishments that violate food safety laws.
- Mandates safety standards for farms and requires farmers to take reasonable precautions to prevent contamination of fresh fruits and produce during growing, harvesting and packing. Permits the Administrator to enter into agreements with State and local authorities to conduct on-farm inspections.
- Establishes a system for certifying imported food as meeting U.S. safety standards and sets up a program for accrediting foreign governments and certifying agents to conduct on-going certifications.
- Requires the Administrator to conduct routine inspections of imported foods, and requires imported foods that are not certified as meeting U.S. standards to enter through ports with an accredited laboratory that can sample and test the food for safety.
- Protects whistleblowers from retaliation for reporting food safety violations.
- Permits citizens to sue food companies directly if the Administrator fails to act on a violation of the food safety laws.